

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BIENVENIDO I. LUGO MARCHANT,  
Plaintiff,

v.

PETER TSICKRITZIS, KEVIN  
KINGSTON and UNITED LIQUORS  
LIMITED,  
Defendants.

Civil Action No. 05 11317 NMG

**RESPONSE TO PLAINTIFF'S NOTICE  
REGARDING DEPOSITION ON OCTOBER 6, 2006**

Defendants, United Liquors, Ltd., Peter Tsickritzis, and Kevin Kingston ("Defendants"), file this response to the notice to the Court filed by Plaintiff, Bienvenido Lugo Marchant ("Plaintiff"), on or about October 11, 2006. Defendants also submit the Affidavit of Joan Ackerstein filed herewith.

On Friday, October 6, 2006, Defendants began taking Plaintiff's deposition at the offices of Defendants' counsel, 75 Park Plaza in Boston. Since Plaintiff was late, the deposition began at 10:30 a.m. and was adjourned in the afternoon, prior to completion, at Plaintiff's request. It was not until Plaintiff requested to adjourn the deposition that he notified Defendants' counsel that he had concerns with the alleged conduct of Defendant, Peter Tsickritzis, during the deposition. Counsel for Defendants was not aware of these concerns until Plaintiff requested to adjourn the deposition. Further, counsel for Defendants did not see or hear any inappropriate conduct during the deposition as alleged by Plaintiff. (Ackerstein Aff., ¶ 3) If Plaintiff had raised his concerns about the conduct during the deposition, counsel for Defendants would have immediately responded to them.

As Plaintiff admits, counsel for Defendants treated him in a hospitable manner. In addition, counsel for Defendants intend to ensure that Plaintiff is treated in a hospitable manner at the continuation of his deposition.

Plaintiff's Notice is not clear as to its purpose. He appears to be suggesting that the Court "should not give Mr. Tsickritzis any right to be heard...." The fact is that Plaintiff is not entitled to any relief since nothing untoward or inappropriate occurred. Accordingly, Defendants submit that the parties should simply proceed with discovery.

Respectfully submitted,

UNITED LIQUORS LIMITED, PETER  
TSICKRITZIS and KEVIN KINGSTON,

By their attorneys,

/s/ Joan Ackerstein  
Joan Ackerstein (BBO# 348220)  
Heather Stepler (BBO# 654269)  
JACKSON LEWIS LLP  
75 Park Plaza, 4<sup>th</sup> Floor  
Boston, Massachusetts 02116  
(617) 367-0025; Fax: (617) 367-2155

Dated: October 27, 2006

**CERTIFICATE OF SERVICE**

I hereby certify that on October 27, 2006, this document was served upon Plaintiff, Bienvenido I. Lugo Marchant, 19 Grove Street, Brockton, MA 02301, by first class mail, postage prepaid.

/s/ Joan Ackerstein  
Jackson Lewis LLP

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

BIENVENIDO I. LUGO MARCHANT,  
Plaintiff,

v.

PETER TSICKRITZIS, KEVIN  
KINGSTON and UNITED LIQUORS  
LIMITED,  
Defendants.

Civil Action No. 05 11317 NMG

**AFFIDAVIT OF JOAN ACKERSTEIN**  
**IN SUPPORT OF RESPONSE TO PLAINTIFF'S NOTICE**  
**REGARDING DEPOSITION ON OCTOBER 6, 2006**

I, Joan Ackerstein, on oath, depose and say as follows:

1. I am a member of the law firm of Jackson Lewis LLP, with an office at 75 Park Plaza, Boston, Massachusetts. I have been practicing law for almost 29 years, since December 1977.

2. I took the deposition of Plaintiff, Bienvenido I. Lugo Marchant, on Friday, October 6, 2006. The deposition was scheduled to begin at 10:00 a.m. With me were Peter Tsickritzis, Director of Operations of United Liquors Ltd., and Kathleen Mansfield, Vice President, Human Resources of United Liquors Ltd., who arrived on time. Plaintiff did not arrive until 10:30 a.m.

3. Contrary to Plaintiff's assertions, Mr. Tsickritzis was appropriately attired, in gray wool slacks, a button down dress shirt and a blue blazer. More significantly, Mr. Tsickritzis was well behaved at all times. In fact, Plaintiff did not raise a single issue about the conduct of the deposition until he was ready to leave and asked to end the deposition. I did not see or hear any inappropriate conduct or comment and I believe I would have had it occurred.

4. Frankly, I believe Mr. Tsickrizzo was quite restrained given that he has been sued individually in a matter which all defendants believe has absolutely no merit. Furthermore, he had to watch Plaintiff make light of the proceeding by reading a magazine while being questioned, among other things.

Signed under the pains and penalties of perjury this 27<sup>th</sup> day of October, 2006.

/s/ Joan Ackerstein  
Joan Ackerstein

**CERTIFICATE OF SERVICE**

I hereby certify that on October 27, 2006, this document was served upon Plaintiff, Bienvenido I. Lugo Marchant, 19 Grove Street, Brockton, MA 02301, by first class mail, postage prepaid.

/s/ Joan Ackerstein  
Jackson Lewis LLP